

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
SOUTHEASTERN DIVISION

Red River Freethinkers,	)	
	)	
Plaintiff,	)	Case No. 3:08-cv-32
	)	
-vs-	)	<b>ORDER ADOPTING REPORT AND</b>
	)	<b>RECOMMENDATION</b>
City of Fargo,	)	
	)	
Defendant.	)	

The Court has received a Report and Recommendation from the Honorable Karen K. Klein, United States Magistrate Judge, pursuant to 28 U.S.C. § 636, recommending Defendant's motion to dismiss, converted to a motion for summary judgment, be granted and Plaintiff's complaint be dismissed (Doc. #44). Plaintiff filed objections to the Report and Recommendation, contending the magistrate judge erred by relying on Twombly v. City of Fargo, 288 F.Supp.2d 983 (D.N.D. 2005), by failing to apply the modified Lemon test, and by finding the claims are non-redressable (Doc. #45).

The Court has reviewed the Report and Recommendation and conducted a *de novo* review of Plaintiff's objections. Upon careful consideration, the Court finds the Magistrate Judge's decision is correct. The Court hereby adopts the magistrate judge's analysis contained in the Report and Recommendation and further finds that to the extent Twombly is not controlling, as Plaintiff contends, the United States Supreme Court's decision in Pleasant Grove City, Utah v. Summum, \_\_\_\_ U.S. \_\_\_\_, 129 S.Ct. 1125 (2009) is decisive. The Court finds the magistrate judge's findings of fact are consistent with the reasoning set forth in Summum and, therefore, the correct result has been reached. The Court hereby adopts the Report and Recommendation granting Defendant's

motion to dismiss. Plaintiff's complaint is **HEREBY DISMISSED** with prejudice.

**IT IS SO ORDERED.**

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated this 8th day of September, 2010.

/s/ Ralph R. Erickson  
Ralph R. Erickson, Chief Judge  
United States District Court